

When preparing transcripts for outside parties, not including judges, reporters have been considered independent contractors, not court employees. This makes sense because the court receives no benefit from the preparation of the transcript. The work is performed after normal working hours, on weekends, or when all their other court duties have been completed. Quite often, court reporters produce these transcripts at home using computer-aided transcription equipment, which they have personally purchased, without any supervision by the court.

For taxation purposes, the fee income received for the work is treated as separate and apart from reporters' court wages. In fact, court reporters in my home State of South Dakota are required to collect and pay sales tax on this income. They also file self-employment income forms with the U.S. Internal Revenue Service.

Mr. President, the situation I have described, typical of almost all State and local court reporters in the country, was thrown into turmoil last year by the Wage and Hour Division of the Labor Department. In a series of letters, the Division took the position that official court reporters in Oregon, Indiana, and North Carolina were still acting as court employees, for purposes of the FLSA, when they prepare transcripts of their stenographic records for private litigants, regardless of when or where the work is completed. Court reporters in most other States operate in circumstances similar to these three States.

None of the groups affected are pleased by the Labor Department's position. Many view the Labor Department as unnecessarily intruding into a situation with which everyone concerned was happy.

If allowed to stand, court employers would be forced to pay overtime for transcription work that is not supervised by the court and from which the court does not receive a benefit. As a result, many more hours of overtime would be accumulated by reporters. At one and one-half times the regular rate of pay, these additional overtime hours would severely strain the limited salary budgets of the courts. In response, courts would be forced to drastically cut back the number of hours allowed for transcription work, or cut back the number of court reporter positions.

State and local court reporters also are not happy with the Labor Department's interpretation. Though they purportedly would be the beneficiaries of the "protections" of the FLSA, reporters are worried their ability to earn outside income would be drastically reduced, that they would be subjected to court supervision when preparing transcripts, and that many reporter positions could be eliminated.

Finally, attorneys and others who request transcripts do not wish to see the current system changed. Under the traditional situation, they receive tran-

scripts quickly and accurately at a reasonable price.

Mr. President, this legislation fixes the problem. It would allow State and local court reporters to continue to prepare transcripts for attorneys and others in their off hours for a per-page fee. During these hours, court reporters would be considered independent contractors, not employees of the court. These hours would not count toward the overtime provisions of the FLSA. Courts would not be required to pay reporters for these hours. The effect of the bill would be to preserve the system as it has existed for years. It is strongly supported by the National Court Reporters Association. I also have heard strong support from many judges and attorneys in South Dakota for preserving the present system.

Mr. President, this is not a partisan issue. As it progressed through the House, this legislation enjoyed broad support on both sides of the aisle. During a hearing held several weeks ago in the House Worker Protections Subcommittee of the Economic and Educational Opportunities Committee, no witness testified in opposition. After consultations with members of both parties and the Labor Department, the House bill was modified to clarify its intent. The modified version was then offered as an amendment in the nature of a substitute by Representative OWENS, the ranking member of the subcommittee, with the approval of the sponsor, Mr. FAWELL.

Essentially, two conditions must be met for the exemption to apply. First, when performing transcript preparation duties, reporters must be paid at a per-page rate that is fair. To ensure reporters are not exploited, the rate must not be less than the maximum rate set by State law or local ordinance or otherwise established by a judicial or administrative officer, or a fair market rate as negotiated by the reporter and the party requesting the transcript.

Second, transcription work must be performed during hours when reporters are not otherwise required by their court employer to be at work. Reporters are clearly acting as employees subject to compensation when they are required by the court to be working, or to be on call during a period of down time in a trial, for instance. However, when court reporters no longer are required to be at work, when they are free to go home or spend their time as they wish, and they choose to prepare transcripts for a private fee, then court employers are under no obligation to compensate them or count those hours toward the overtime provisions of the FLSA. This is common sense.

Mr. President, as I mentioned, no opposition to this legislation appeared in the House. I do not expect any opposition in this chamber either. S. 190, the bill I introduced, has been cosponsored by Senator KASSEBAUM, chairman of the Labor and Human Resources Committee, as well as Senators EXON,

HELMS, JEFFORDS, COCHRAN, COATS and BROWN. I thank them for their support and am confident they also will find the House-passed legislation satisfactory.

H.R. 1225 is being held at the Senate desk pursuant to my request. It is my intention to seek unanimous consent to move this bill at the appropriate time. I understand from the staff of the ranking member of the Labor Committee, Senator KENNEDY, that he does not plan to object to moving this legislation. I also have checked with other members of the Labor Committee from the other party and have not heard of any opposition. Nor did I expect any.

To conclude, Mr. President, I thank all my colleagues for their support and look forward to moving this bill quickly.

Mr. DOLE. I ask unanimous consent that the bill be deemed to have been considered, read a third time, and passed, and the motion to reconsider be laid on the table, and any statement relating to the bill appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (H.R. 1225) was deemed to have been read the third time and passed.

ORDERS FOR MONDAY, AUGUST 7, 1995

Mr. DOLE. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until 9 a.m. Monday, August 7, 1995; that following the prayer, the Journal be deemed approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate proceed to a period for routine morning business not to extend beyond the hour of 10:30 a.m. with Senators permitted to speak for up to 5 minutes each, with the following exceptions: Senator FRIST for up to 60 minutes, Senator DASCHLE or his designee for up to 30 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. I further ask that the closure vote scheduled to occur on Monday be postponed to occur at a time to be determined by the majority leader after consultation with the Democratic leader.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. DOLE. For the information of all Senators, the Senate will resume consideration of the welfare reform bill at 10:30 a.m. Then the amendment I have offered is the Work Opportunity Act of 1995. Votes can be expected during Monday's session of the Senate, but will not occur prior to the hour of 4:30 p.m. on Monday. Also, votes could occur later that evening with respect to amendments to the DOD authorization bill during Monday's session. I